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ARCHWAY BROADWAY LOAN SPE, LLC
7

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **LOS ANGELES DIVISION**
11

12 In re
13 SEATON INVESTMENTS, LLC, *et al.*,
14 Debtors and Debtors-in-
15 Possession.

16 Affects:

- 17 ☐ All Debtors
18 ☐ Seaton Investments, LLC
☐ Colyton Investments, LLC
19 ☒ Broadway Avenue Investments, LLC
☒ SLA Investments, LLC
20 ☒ Negev Investments, LLC
☒ Alan Gomperts
21 ☒ Daniel Halevy
22 ☒ Susan Halevy
23

Lead Case No. 2:24-bk-12079-VZ

Jointly Administered with Case Nos.:

2:24-bk-12080-VZ; 2:24-bk-12081-VZ;
2:24-bk-12082-VZ; 2:24-bk-12091-VZ;
2:24-bk-12074-VZ; 2:24-bk-12075-VZ; and
2:24-bk-12076-VZ

Chapter 11

**ARCHWAY BROADWAY LOAN SPE,
LLC'S STATUS REPORT RE
CONTINUED HEARING ON ORDER TO
APPEAR TO EXPLAIN WHY CASES
SHOULD NOT BE DISMISSED**

Date: February 27, 2025
Time: 11:00 a.m.
Crtrm.: 1368
255 E. Temple Street
Los Angeles, CA 90012

Hon. Vincent P. Zurzolo

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I. STATUS UPDATE¹

At the OSC hearing in late January, the Debtors’ counsel announced that we would all know **by February 25** whether confirmation was viable. *See* Transcript at 6:23–24 (“come February 25th we will know if the Court has approved the lease, approved the financing.”); 7:9–11 (“by February 25th we will know if there’s going to be a confirmation or not.”).

At the OSC, Archway made it clear that it has discovery rights that it intends to use to get to the bottom of key issues in connection with the Lease and, in turn, feasibility of any plan.

The Court urged compliance in discovery by the lessees and noted that if the Lease Motion isn’t granted, it would be game over.

A. The Lessee continues to evade service.

Since the OSC, Archway has served discovery on, among others, the only known lessee² under the Lease, i.e., The DMB Fund. It has become crystal clear that DMB is evading service of the subpoena. *See* Warrington Decl., Exh. 1.

This is not the first time DMB has evaded service. *See* Warrington Decl., Exh. 2.

DMB’s address, per the Secretary of State, is 2350 Castle Heights Avenue, Los Angeles, CA 90034. This is the same address where Archway previously attempted to serve DMB, but where the process server reported “*Per David*, Judy Cox does not live here.” Warrington Decl., Exh. 2 (emphasis added). The “David” is most likely David Schwarcz, DMB’s prior CEO.³

¹ Archway Broadway Loan SPE, LLC, a Delaware limited liability company, successor in interest to Archway Real Estate Income Fund I REIT, LLC (“Archway”), submits this Status Report (“Archway-Status-Report”) in advance of the continued hearing on the Court’s Order to Appear to Explain Why Cases Should Not be Dismissed (“OSC”) (Dkt. 367) entered in the lead case of those jointly-administered debtors, Seaton Investments, LLC (“Seaton”), Colyton Investments, LLC (“Colyton”), Broadway Avenue Investments, LLC (“Broadway”), SLA Investments, LLC (“SLA”), and Negev Investments, LLC (“Negev” and collectively with Seaton, Colyton, Broadway and SLA, the “Corporate Debtors”) and Alan Gomperts (“Mr. Gomperts”), Daniel Halevy (“Mr. Halevy”), and Susan Halevy (“Ms. Halevy” and collectively with Mr. Gomperts and Mr. Halevy, the “Individual Debtors” and collectively with the Corporate Debtors, the “Debtors” and excluding Seaton and Colyton, the “Remaining Debtors”).

² The identity of the Lessee’s “designee” has not been disclosed to this day.

³ Schwarcz was removed as CEO of DMB in early November 2024. Dkt. 330-2 Exh. 23.

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1 Indeed, Schwarcz is listed at this Castle Heights address in bankruptcy schedules filed on
2 behalf of CSR Worldwide OK, Inc. in the Eastern District of Oklahoma. *See* Warrington Decl.,
3 Dkt. 330-2 at GERR-078. Those same Oklahoma bankruptcy schedules connect Schwarcz with
4 Steve Bombola, the person who stole receivership assets from a federal receivership over that
5 same Oklahoma entity and then lied to the receiver about it and was held in contempt just last year
6 by a federal judge for such theft. *See id.*

7 Archway’s discovery, in part, seeks to uncover Bombola and Schwarcz’s connections to
8 DMB and the Lease—none of which has been disclosed and some of which has been actively
9 hidden.

10 **B. Why is Debtors’ counsel injecting itself into subpoena document productions?**

11 After Archway gave notice of subpoenas, the Debtors’ counsel apparently contacted each
12 of the subpoena deponents directly and made arrangements on their own to play the role of
13 intervenor or middle-man in producing documents to Archway. It is highly unusual to have the
14 adverse party in a case insert itself into third party subpoena discovery to essentially become the
15 middle-man between the custodian of records and the subpoenaing party. This lends itself to all
16 sorts of questions as to the adequacy and fulsomeness of the document production.

17 Archway was not a party to those conversations, but the results of those communications
18 are that the Debtors’ counsel have now apparently started filtering what documents are produced
19 by the subpoena deponents to Archway and what documents are withheld. The Debtors’ counsel
20 apparently reviewed and then produced certain documents to Archway via document links. The
21 Debtors are calling this a rolling production. All of these selected documents have been bates
22 labeled and marked as “CONFIDENTIAL” apparently by Debtors’ counsel.

23 In turn, Archway’s counsel asked Debtors’ counsel what documents were being produced
24 and what were being withheld. The response from Debtors’ counsel was that “we have not
25 improperly withheld any documents for production....” *See* Warrington Decl., Exh. 3.

26 But, this doesn’t answer the question. This is a **highly unusual process** that is not
27 permitted under the federal rules and that raises all sorts of issues about the Debtors’ counsel’s
28 role and actions in acting as an intermediary on behalf of the subpoena deponents.

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C. Why are the Debtors objecting to the subpoenas?

The Debtors have now objected to all of Archway’s subpoenas, including the key financial information Archway has been seeking for the past year about tenant financials.

In the objections, the Debtors claim that their own proposed tenants’ financials are “irrelevant” and subject to attorney-client and work product privileges. *See* Warrington Decl., Exhs. 4–16. But the Debtors *don’t* represent these third-party deponents. *See* Declaration of Zev Shechtman, Dkt. 440 at 4 of 127 (“My firm does not represent these parties.”). So, there are no privileges, and the Debtors lack standing to object. *See California Sportfishing Prot. All. v. Chico Scrap Metal, Inc.*, 299 F.R.D. 638, 643 (E.D. Cal. 2014) (providing that the general rule is that a party lacks standing to object to a subpoena except as to claims of privilege).

The Debtors also claim the subpoenas are overbroad and that their DIP lender was so offended that it cancelled the LOI. But that’s not what the DIP lender said. *See* Declaration of Auriel Streit Dkt. 437 at ¶ 3 (citing “various reasons” for withdrawing the LOI). After that declaration was filed, the DIP lender’s counsel contacted Archway’s counsel who agreed to limit the scope of the subpoena, given the DIP lender’s withdrawal of the LOI, but as of the moment this Status Report is being signed, the DIP lender’s counsel has objected and not agreed to accept service of the subpoena, and the address for service is no good. *See* Warrington Decl., Exh. 4.

The more fundamental question is—why are Debtors objecting in the first place? Wouldn’t this information only *support* the Debtors’ own Lease Motion?

II. CONCLUSION

A lot of critical information is not being disclosed, and Archway can only hope that this is not what it appears to be—the same Bombola-Schwarcz scheme that played out last year in the Eastern District of Oklahoma.

DATED: February 21, 2025

FRANDZEL ROBINS BLOOM & CSATO, L.C.

By: /s/ Gerrick M. Warrington
GERRICK M. WARRINGTON
Attorneys for Secured Creditor
ARCHWAY BROADWAY LOAN SPE, LLC

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 1000 Wilshire Boulevard, Nineteenth Floor, Los Angeles, CA 90017-2427.

A true and correct copy of the foregoing document entitled (*specify*):

ARCHWAY BROADWAY LOAN SPE, LLC'S STATUS REPORT RE CONTINUED HEARING ON ORDER TO APPEAR TO EXPLAIN WHY CASES SHOULD NOT BE DISMISSED

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) February 21, 2025, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Counsel to Party in Interest: Scott R Albrecht salbrecht@gsaattorneys.com, jackie.nguyen@sgsattorneys.com
- Counsel to KDM: Tanya Behnam tbehnam@polsinelli.com, tanyabehnam@gmail.com;ccripe@polsinelli.com;laddocketing@polsinelli.com
- Counsel to Party in Interest: Jacquelyn H Choi jacquelyn.choi@rimonlaw.com, docketingsupport@rimonlaw.com
- Counsel to Individual Debtors: Carol Chow Carol.Chow@saul.com, easter.santamaria@saul.com
- Counsel to Party in Interest: Robert F Conte robert.conte@usdoj.gov, caseview.ecf@usdoj.gov;usacac.tax@usdoj.gov
- Counsel to Individual Debtors: Ryan Coy ryan.coy@saul.com, hannah.richmond@saul.com
- Counsel to Party in Interest: Christopher Cramer secured@becket-lee.com
- Counsel to Individual Debtors: Turner Falk turner.falk@saul.com, tnfalk@recap.email
- Counsel to Archway: Michael G Fletcher mfletcher@frandzel.com, sking@frandzel.com
- Counsel to Party in Interest: Todd S. Garan ch11ecf@aldridgepите.com, TSG@ecf.inforuptcy.com;tgaran@aldridgepите.com
- Counsel to Party in Interest: Richard Girgado rgirgado@counsel.lacounty.gov
- Counsel to Party in Interest: Jacqueline L James jjames@hrhlaw.com
- Trial Counsel to U.S. Trustee: Kelly L Morrison kelly.l.morrison@usdoj.gov
- Counsel to Party in Interest: Avi Edward Muhtar amuhtar@crowndandstonelaw.com
- Counsel to Archway: Bruce D Poltrock bpoltrock@frandzel.com, achase@frandzel.com
- Counsel to Individual Debtors: Zev Shechtman Zev.Shechtman@saul.com, zshechtman@ecf.inforuptcy.com;hannah.richmond@saul.com
- Counsel to Corporate Debtors: Derrick Talerico dtalerico@wztslaw.com, maraki@wztslaw.com,sfritz@wztslaw.com,admin@wztslaw.com
- United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov
- Counsel to Archway: Gerrick Warrington gwarrington@frandzel.com, achase@frandzel.com
- Counsel to Party in Interest: Jennifer C Wong bknotice@mccarthyholthus.com, jwong@ecf.courtdrive.com

☐ Service information continued on attached page.

2. SERVED BY UNITED STATES MAIL:

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page.

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) February 21, 2025, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Overnight Delivery (Early Morning):

The Honorable Vincent P. Zurzolo
U.S. Bankruptcy Court
Roybal Federal Building
Bin outside of Suite 1360
255 E. Temple Street
Los Angeles, CA 90012-3332

Email:

Counsel to Corporate Debtors:

Derrick Talerico dtalerico@wztslaw.com

Counsel to Individual Debtors:

Zev Shechtman Zev.Shechtman@saoul.com

Turner Falk turner.falk@saoul.com

Ryan Coy ryan.coy@saoul.com

United States Trustee:

Kelly L Morrison kelly.l.morrison@usdoj.gov

☐ Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

February 21, 2025	Annette Chase	/s/ Annette Chase
<i>Date</i>	<i>Printed Name</i>	<i>Signature</i>